

CONSTRUCTION

MEMORANDUMS

MEMO NO. 50

DATE OF ISSUE:

APRIL 2004

SUBJECT:

GENERAL WAGE DETERMINATION
GUIDANCE

DATE OF REVIEW:

APRIL 2005

The Federal Department of Labor (DOL) recently completed a new prevailing wage rate survey for the State of Idaho and has published general wage determinations (18 and 19) for inclusion in Federal-Aid contracts. The current general wage determinations are markedly different than the previous determinations. A significant majority of classifications were eliminated in the revised versions.

For applicable projects, the paragraphs below provide guidance regarding the revised wage determinations during the:

- Bidding phase;
- After award; and
- During the project

Bidding Phase

In response to inquiries regarding the wage determination in the contract:

- Refer the contractor to the contract clause: *Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provide in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii))*. See attachment for the referenced regulation.
- Refer the contractor to the DOL website which includes the Prevailing Wage Resource Book (www.wdol.gov/library). The Resource Book provides information regarding what information the DOL needs and how they will evaluate requests for additional classifications and wage rates.
- Refer the contractor to the Wage-Hour Division of DOL if they desire further clarification regarding proper application of the wage determinations to specific upcoming projects (www.dol.gov/esa/whd).
- Inform the contractor that all requests must be submitted on the DOL form SF 1444 (copy attached) and include all necessary supporting documentation.
- Emphasize it is:
 - The contractor's responsibility to determine the correct prevailing wage to use in preparing their bids.
 - The DOL has final approval of additional classifications.

After Award

- In the pre-construction conference discuss the wage determination and conformance criteria (i.e. are additional classifications needed to for the project). Provide the additional classification form (SF-1444) to the contractor if needed (can also be found at www.wdol.gov).
- Review contractor request for additional classes and rate in accordance with the criteria for conformance with the contract wage determination (a conformance checklist is contained in the Prevailing Wage Resource Book).
 - Work to be performed is not performed by a classification already listed on the applicable wage determination.
 - Requested rate bears a reasonable relationship to other rates in the wage determination.
 - Request complies with the guidance provided in the Prevailing Wage Resource Book.
 - The views of all affected parties have been considered (i.e. Prime Contractor; Subcontractor if applicable, Employees if known, Union Representative if applicable.)
 - Determine whether affected parties are in agreement or have disputes and attempt to resolve disputes in accordance with conformance criteria if possible.
 - Develop Department recommendation and document disputes if any.
- Submit conformance request to DOL review and ruling (SF1444; related documentation and Department ruling; copy of contract wage determination. (Note: the DOL has 30 days to provide a ruling but a lack of response does not indicate approval).
- Communicate the DOL determination to the contractor and other interested parties. Advise the contractor and other interested parties of the reconsideration and appeal process (29 CFR 5.5(a)(9) and 29 CFR Part 7.

During the Project

All contractor and subcontractor (including lower tiers) employees that meet the definition of a mechanic or laborer as defined in the Code of Federal Regulations must have a valid classification:

- Review certified payrolls. Look for classifications not listed in the wage determination or approved by the DOL as an additional classification request.
- Conduct on-site inspections/employee interviews as required. Identify additional classes if applicable.
- Consider subcontractor inquiries about missing classifications and rates.
- Consider complaints by employees, unions or other contractors.

Document for the Project File All Discussion and All Actions Taken

Consult with the DOL Wage-Hour Division if needed

Contact the Construction Section for additional assistance if needed

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Revisions:

Signature on file

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29 CFR 5.5(a)(1)(ii)

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.